

### REMARKS/ARGUMENTS

In response to the Office's claim objections, the second claim "7" has been renumbered --8-- and claim "8" has been renumbered --9--.

The Office has rejected claims 1-9 under 35 U.S.C. 102(b) as anticipated by Criley. Claim 1 has been amended to better distinguish the present invention from related art. Criley discloses a tailgate step wherein "horizontal tailgate bars 44 are pivoted either directly to the tailgate 21 by pivot pins 50 or by suitable brackets (not shown) secured within the recess 51." (Column 4, lines 9-12). While the present invention requires only a single support member and a single step member to provide a rigidly-supported tailgate step, Criley discloses and claims horizontal bars pivotally attached to a tailgate, riser links pivotally attached to the horizontal bars, and a step pivotally attached to the riser links. Each component swings freely over a considerable range of travel about each pivot.

As shown in Criley's Fig. 11, the horizontal bars rest against the inner tailgate surface to react vertical loads, while the riser links rest against the end of the tailgate to react horizontal loads. However, as pointed out in the description of the present invention, vehicle body metal is typically soft and unsuited for such loads, especially when the load is magnified by the lever arm of Criley's "riser link 35" reacting body weight on a step through a "pivot pin 46." Such a load can easily crush the upper edge of a tailgate.

The tailgate step disclosed by Graffy, et al. shares this defect. Moreover, reliance on the tailgate edge to prevent horizontal motion of the step requires careful positioning of the attachment between the step and the tailgate, as a small error could result in an unsteady step. This is all the more true with regard to Criley's vertical risers, which tend to swing away from the vehicle when a person's foot exerts an outward force on the step. In contrast, the present invention does not rely on soft tailgate metal to react concentrated

loads, but instead provides a reinforced hinge that is integral with the storage channel and that has an integral contact surface to react the load exerted by the support member.

Additionally, Criley's Fig. 11 shows a step storage area consisting of large, open depression in a tailgate. Such a large, open depression substantially reduces the cross-section of the tailgate, thereby weakening it. In contrast, the present invention relies either on relatively narrow, stiff channels that are welded, bolted, or otherwise solidly affixed to the tailgate, or on relatively narrow, stiff channels that are formed into the tailgate at the time of manufacture. Such stiff channels increase the rigidity of the tailgate rather than decreasing it. Criley is forced to provide a large, open depression to accommodate a large folding step. The present invention utilizes a relatively narrow, rigidly-attached step member, greatly reducing the storage channel volume required and allowing the use of narrow, stiff channels.

Meinke's tailgate extender does not disclose a hinge that is integral with a storage channel. Instead, Meinke relies on upper and lower post members that are pivotally joined and slide within guide tubes mounted inside a tailgate. (Column 3, lines 36-45). Step loads are carried in shear by catch pins (column 3, line 66). As pointed out in the description of the present invention, mechanisms enclosed within a tailgate are prone to contamination, corrosion, and jamming. Additionally, Meinke's shear pin is less reliable than the contact surface of the present invention.

Please cancel claims 2, 3, 4, and 5 without prejudice.

Claim 6 has been amended to better distinguish the present invention from related art.

Please cancel claims 7 and 8 without prejudice.

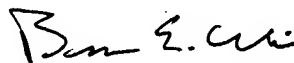
The Applicant respectfully maintains that claim 9 is not anticipated by references cited. "Where means plus function language is used to define the characteristics of a machine or manufacture invention, claim limitations must be interpreted to read only on the structures or materials disclosed in the specification or "equivalents thereof." (MPEP 2106). The inventions cited as prior art do not perform the same function in substantially the same way with substantially the same result as the present invention, nor do the inventions cited have elements completely interchangeable with those of the present invention. There are substantial differences between key elements of the inventions cited and those of the present invention, and key elements of the present invention are not structurally equivalent to elements of the inventions cited. Please reconsider claim 9 in light of the specification.

New claim 10 distinguishes the present invention from tailgate steps with step members that pivot with respect to attached support members.

New claims 11 through 16 add limitations disclosed in the specification.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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